

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CARLOS D. KNOX,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Case No. 03-cv-4206-JPG

**MEMORANDUM AND ORDER**

This matter comes before the Court on petitioner Carlos D Knox's ("Knox") notice of appeal (Doc. 20) of the judgment in this case. Pursuant to Federal Rule of Appellate Procedure 22(b)(1), the Court construes Knox's notice of appeal as a request for a certificate of appealability. *See Ouska v. Cahill-Masching*, 246 F.3d 1036, 1045 (7th Cir. 2001). A § 2255 petitioner may not proceed on appeal without a certificate of appealability. 28 U.S.C. § 2253(c)(1); *see Ouska*, 246 F.3d at 1045. A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *see Tennard v. Dretke*, 124 S. Ct. 2562, 2569 (2004); *Ouska*, 246 F.3d at 1045. To make such a showing, the petitioner must "demonstrate that reasonable jurists could debate whether [the] challenge in [the] habeas petition should have been resolved in a different manner or that the issue presented was adequate to deserve encouragement to proceed further." *Ouska*, 246 F.3d at 1046; *accord Tennard*, 124 S. Ct. at 2569; *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (certificate of appealability should issue if the petitioner demonstrates "that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong."). For the reasons set forth in the Court's order denying Knox's § 2255 motion (Doc.

16), the Court finds that Knox has not made such a showing and, accordingly, declines to issue a certificate of appealability.

**IT IS SO ORDERED.**

**DATED: June 8, 2005**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**